

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

John D. Westley,

Plaintiff,

v.

Civil No. 11-3704 (JNE/JSM)  
ORDER

James Robert Mann et al.,

Defendants.

In a Report and Recommendation dated August 15, 2012, the Honorable Janie S. Mayeron, United States Magistrate Judge, recommended that several defendants' motions to dismiss be granted. The Court construed a motion filed by John Westley as objections to the Report and Recommendation. Michael Tilson Thomas, the City of Miami Beach, and Max Sklar responded. The Court has conducted a de novo review of the record. *See* D. Minn. LR 72.2(b). Based on that review, the Court adopts the Report and Recommendation [Docket No. 107].

Therefore, IT IS ORDERED THAT:

1. Defendant Michael Tilson Thomas's Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 12(b)(2) [Docket No. 6] is GRANTED. The Complaint as to Thomas is dismissed WITHOUT PREJUDICE.
2. Defendant Victoria Sigler's Motion to Dismiss [Docket No. 11] is GRANTED. The Complaint as to Sigler is dismissed WITHOUT PREJUDICE.
3. Defendants City of Miami Beach and Max Sklar's Motion to Dismiss Plaintiff's Complaint Pursuant to Fed. R. Civ. P. 12(b)(2) [Docket No. 21] is GRANTED. The Complaint as to City of Miami Beach and Max Sklar is dismissed WITHOUT PREJUDICE.
4. Defendants Steven P. Kalka and Silver Hill Financial, LLC's Motion to Dismiss Plaintiff's Complaint and/or for Summary Judgment [Docket No. 60] is GRANTED. All claims in the Complaint against Steven P. Kalka are dismissed WITHOUT PREJUDICE. All claims against Silver Hill Financial pertaining to fraud in the inducement (and associated claims of breach of contract, breach of a fiduciary duty and unjust enrichment) related to Westley's guaranty of the purchase and financing of the Property are barred under the doctrine of res judicata and are dismissed WITH PREJUDICE. Any purported claims against

Silver Hill Financial under OSHA, TILA, FERA, the “Federal UCC,” the “Federal UBC,” wire and mail fraud statutes (18 U.S.C. § 1341 and 18 U.S.C. § 1343), and USERRA are dismissed WITH PREJUDICE. The remaining claims against Silver Hill Financial pertaining to “Federal Civil Rights,” RICO, the ADA, and the FCRA are dismissed WITHOUT PREJUDICE.

Dated: September 14, 2012

s/Joan N. Erickson

JOAN N. ERICKSEN

United States District Judge